

**REMARKS**

The enclosed is responsive to the Examiner's Office Action mailed on Jan 08, 2010. At the time the Examiner mailed the Office Action claims 1-14 were pending. By way of the present response the Applicants have:

- 1) amended no claims;
- 2) canceled no claims;
- 3) added no new claims.
- 4) argued the patentability of the independent claims 1, 8 and 11.

As such, claims 1-14 are now pending. The Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented in view of the amendments and following arguments and remarks.

Applicants thank the Examiner for discussing with the undersigned the issue with the earliest priority date of the present application. This amendment includes the subject matter discussed during three separate tele-conversations of the Examiner and the undersigned.

***Claim Rejections***

**Rejections under 35 U.S.C. §103:**

Independent claims 1, 8 and 11 were rejected under 103(a) as being unpatentable over Van Rietschote et al. (U.S. Patent No.7,203,944) (hereinafter "Rietschote") in view of US Patent Application No. 2003/0005068 (hereinafter "Nickel"). Applicant respectfully traverses this rejection.

The present application is a national stage application of the PCT application No. PCT/EP03/50809 filed on Nov. 10, 2003. This PCT application claims priority to the European Patent Application No. 0204884.5 filed on Nov. 8, 2002. A certified copy of this foreign application was submitted to the Office on May 5, 2005. Applicants' Specification, as filed on May 5, 2005, is an accurate translation of the above mentioned European application. The Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a

Application No.: 10/533,885

Filing Under 35 USC 371 filed on May 5, 2005 included an English translation of the international application (see check box 6). The Notice of Acceptance of Application Under 35 USC 371 and 37 CFR 1.495 mailed by Office to the Applicants on September 28, 2005 acknowledges the receipt of the English Translation of the IA.

Applicants believe that all requirements to claim priority to the earliest filed international application was complied with. On Oct. 13, 2005, the Applicants filed a request for corrected official filing receipt. However, the Office did not respond to the request. The oath and declaration as filed on May 5, 2005 correctly identifies the above mentioned European application and claims priority to the European application.

The Applicants respectfully submit that Rietschote was filed on Jul. 9, 2003, a date after the claimed earliest priority date of Nov. 8, 2002 of the present application. Hence, Rietschote does not qualify as prior art. The Office is requested to withdraw the above mentioned rejection.

Accordingly, Applicants respectfully submit that the present Application is in condition for allowance. Applicants therefore respectfully request reconsideration of the outstanding rejections and a Notice of Allowance. If there are any additional charges, please charge Deposit Account No. 50-2652 (Order No. A279). The Examiner is invited to contact the undersigned at 650-427-3096 to discuss any additional changes the Examiner may feel is necessary in light of this Amendment.

Date: January 27, 2010

Respectfully submitted,  
for VMware, Inc.

/Rajeev Madnawat/

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